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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,285	03/03/2004	Linn D. Wanbaugh	066044-2026	8958
25269	7590	08/23/2005	EXAMINER	
DYKEMA GOSSETT PLLC FRANKLIN SQUARE, THIRD FLOOR WEST 1300 I STREET, NW WASHINGTON, DC 20005			HOGAN, JAMES SEAN	
		ART UNIT	PAPER NUMBER	3752

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Thtca

Office Action Summary	Application No.	Applicant(s)
	10/791,285	WANBAUGH ET AL.
	Examiner James S. Hogan	Art Unit 3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 March 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4,5, 7-12 and 16-20 is/are rejected.
- 7) Claim(s) 2,3,6 and 13-15 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5, 7-12, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,554,211 to Prueter et al in view of U.S Patent Application US 2003/0052194 to Streuker et al.

Regarding claim 1, 5, 7-12,16-20, Prueter et al. ('211) teaches a manually operated sprayer for a container of liquid to be sprayed (14), having, variable volume pump means (32) having liquid inlet (34) means for connecting the pump means with liquid in the container, outlet means (28) connecting the pump means with a discharge opening, a manual actuator (24) for activating the pump means for pumping liquid from the container through the outlet means and the discharge opening. Streuker et al. ('194) teaches a tamdemly-assembled control module (numbers 72, 44, 52, and 32) having spring biased product (72) and vent (32) valves being simultaneously reciprocal by means of the actuator for venting and/or product dispensing purposes (page 2, paragraph 23, lines 8–16). As per claim 5, the product and vent valves are formed of a plurality of components fitted together. As per claims 7 and 16, the actuator of Prueter et al. ('211) first operates a pump before actuating vent valves (page 2, paragraph 20, lines 22-28). As per claims 8 and 17 Prueter et al. ('211) teaches first and second

protrusions (31 and 35) for operating a switch for engaging motor means and thereafter opening vent valves (Col 3, lines 25-31). As per claims 9, 11, 18, and 20 the actuator of Prueter et al. ('211) comprises a trigger lever (14) that returns to a relaxed position. As per claim 10 and 20, the sprayer of Prueter et al. ('211) includes an electric motor (23) for operating the pump and batteries (26) for operating the motor. It would have been obvious to one skilled in the art at the time the invention was made to have modified the spray device of Prueter et al. ('211) with the product and vent valves of Streuker et al. In order to create a spray device with more economically feasible parts.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable for reasons that it would have been obvious to one having ordinary skill in the art at the time the invention was made to have created product and vent valves of a single structure, since it has been found the at forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard vs. Detroit Stove Works*, 150 U.S. 164 (1893).

Allowable Subject Matter

1. Claims 2, 3, 6 and 13-15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 5,884,845 to Nelson, disclosing a trigger sprayer

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH
08/18/2005



David A. Scherbel
Supervisory Patent Examiner
Group 3700